

A F F I D A V I T

STATE OF WEST VIRGINIA

COUNTY OF PUTNAM, to-wit:

I, Sean McNees, being first duly sworn, do hereby depose and state as follows:

1) I am currently employed as a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") and have been so employed since January 2016. I am assigned to ATF's Charleston, West Virginia, Field Office.

2) I have investigated arson; crimes of violence; conspiracies to commit various crimes involving the use of firearms; the illegal possession, use, and sale of firearms; and the possession, use, and trafficking of illegal controlled substances. I have purchased controlled substances utilizing cooperating individuals in controlled buys. I am familiar with the appearance, packaging, paraphernalia, and distribution of cocaine, crack cocaine, heroin, marijuana, LSD, pharmaceuticals, methamphetamine, and other street drugs. I am also familiar with tactics used by illegal possessors and traffickers of firearms to possess, maintain, acquire, and distribute their firearms.

3) I graduated from a ten-week criminal investigator training course at the Federal Law Enforcement Training Center,

where I learned basic criminal investigation techniques. In addition, I graduated from the twelve-week ATF National Academy, where I learned about federal firearms laws, federal explosives laws, bomb scene investigations, and arson investigations.

4) On January 3, 2023, I obtained a federal search warrant for the residence of Stephen SIMMONS ("SIMMONS") located at 3211 32nd Street, Apartment A, Nitro, WV 25143.

5) On January 3, 2023, agents from the ATF Charleston Field Office then established surveillance on SIMMONS' residence in anticipation of serving the search warrant. SIMMONS was observed walking out of the main entry door of the building that his apartment was in. He was then detained.

6) The search warrant was then executed on his residence. During the search numerous items of evidence were seized, including several firearms, suspected firearm silencers, suspected machineguns, suspected marijuana, and evidence of drug use. One of the items recovered was a suspected machinegun-conversion device commonly referred to as a "Glock Switch." That Glock Switch was found in a hard-sided case with combination locks in SIMMONS' kitchen, and that same case contained four privately manufactured firearms, which were Glock type pistols, more commonly known as "ghost guns."

7) On August 3, 2017, the ATF Firearms & Ammunition Technology Division issued a memorandum alerting law enforcement of the existence of Glock conversion devices - commonly known as "Glock Switches" or "Glock Auto Sears." The conversion of a pistol using a Glock Auto Sear takes approximately 60 seconds. A converted Glock pistol has a fire-rate of approximately 1,100 to 1,200 rounds per minute. Such conversion devices fall within the definition of machinegun under 26 U.S.C. § 5845(b). It is unlawful for any person to possess such a device unless that person is properly licensed and has paid the appropriate Special Occupation Tax required of those possessing, manufacturing, importing, or dealing in machineguns or any other National Firearms Act ("NFA") firearms.

8) If an individual was in lawful possession of a NFA firearm, such as a machinegun-conversion device or Glock Switch, their name and the identifying information from the firearm would be listed in the National Firearm Registration and Transfer Record.

9) On December 30, 2022, I conducted a records search of SIMMONS' name through the National Firearm Registration and Transfer Record. SIMMONS did not have any NFA firearms registered to him.

10) On January 4, 2023, SA McNees sent several photographs of the suspected Glock Switch seized from SIMMONS' residence to an ATF Firearms Enforcement Office ("FEO"), whose duties include making determinations on such devices. One of those photographs depicts part of the conversion device with the words "Glock Made in AUSTRIA" on it. It was the verbal opinion of the ATF FEO that the suspected machinegun conversion device (Glock Switch) seized from SIMMONS' residence would be classified as a machinegun as defined in 26 U.S.C. § 5845(b).

11) Furthermore, SIMMONS knew of the characteristics of the NFA firearm seized from the case in his kitchen that is, that it was a part, or combination of parts, designed and intended for use in converting a semiautomatic Glock pistol or Glock type pistol into a machinegun, more commonly referred to as a "Glock Switch."

12) Based on my knowledge, training, and experience, the aforementioned information set forth in this Affidavit constitutes probable cause to believe that SIMMONS has committed a violation of 26 U.S.C. § 5861(d) - possession of a firearm that is not registered to him in the National Firearms Registration and Transfer Record. Based on the information set forth in this affidavit, your affiant hereby requests that an arrest warrant for Stephen SIMMONS, be issued.

Further, your affiant sayeth naught.



Sean A. McNees
Special Agent
Bureau of Alcohol, Tobacco
and Firearms

Sworn to before me, and subscribed by reliable electronic means, this 4th day of January 2023.



Omar J. Aboulhosn
United States Magistrate Judge